IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.08.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM

AND

THE HON'BLE MR. JUSTICE S. MANIKUMAR

WRIT APPEAL NO.985 OF 2006

AND MP.No.1 of 2006

The Padma Seshadri Balabavan
Secondary School (Junior College)
29 Alagiriswamy Road
K.K. Nagar, Chennai 600 078
rep. by its Principal. .. Appellant

vs.

1. M.V. Ramani

2. The Chairman
   Central Board of Secondary Education
   2 Community Centre, Preeth Vihar
   New Delhi 110 092. .. Respondents

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice N. Paul Vasanthakumar dated 30.06.2006 made in W.P.No.19992 of 2006.

WP.19992 of 2006 filed under Art.226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent herein dated 26.6.06 and quash as illegal, unlawful without jurisdiction and snacked with malafides and consequently to forbear the respondents more particularly the second respondent from in any manner interfering or disturbing the petitioner peacefully executing more particularly the 2nd respondent from in any manner interfering or disturbing the petitioner peacefully executing the functions as Accountant in the 2nd Respondent School and drawing salary.

For appellant : Mr. Dwarakanathan

For respondents: Mr. R. Muthukumarasamy, Sr.counsel
for Mr. T.S. Rajamohan for R.1

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JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The above writ appeal is directed against the order of the learned single Judge dated 30.06.2006 made in W.P.No.19992 of 2006, in and by which while permitting the writ petitioner to submit his reply to the show cause notice dated 26.06.2006 and allowing the second respondent to proceed with the disciplinary proceedings, if they so desire, disposed of the main writ petition. In the same order, the learned Judge, further observed that no final order should be passed without obtaining permission from this court. Aggrieved by the said direction, the second respondent/School has filed the above appeal.

2. Even at the admission stage, the first respondent is represented by counsel.

3. Heard the learned counsel for the appellant as well as the learned senior counsel for the second respondent.

4. In view of the order to be passed hereunder, it is unnecessary to traverse the factual details as stated by both parties. Though the learned counsel for the appellant raised an objection that the writ petition itself is not maintainable, inasmuch as the said issue has not been gone into by the learned Judge and merely permitted the writ petitioner to submit his reply and proceed further if the same is required, we are of the view that there is no need to consider the said claim. Further, it is not in dispute that the writ petitioner is entitled to reply the show cause notice dated 26.06.2006 and thereafter, as rightly observed by the learned Judge, if the reply is not satisfactory, it would be open to the Management / School, to conduct disciplinary proceedings. It is also not in dispute that impugned order was passed by the learned Judge in the main writ petition. In such circumstances, we are of the view that the further direction, viz., final order should not be passed by the Management without obtaining permission from this Court is not warranted; accordingly, the said direction is set aside. In all other respects, the order of the learned single Judge is confirmed. The writ appeal is disposed of accordingly. No costs. Consequently, connected MP., is closed.

kh

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

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To

1.The Chairman, Central Board of Secondary Education,
2 Community Centre, Preeth Vihar, New Delhi - 110 092.

+ one cc to Mr.Meenakshi Sundaram, Advocate Sr.No.35923.
+ one cc to Mr.T.S.Rajamohan, Advocate Sr.No.36411.

TEJ (CO)
RSM/23.8.2006

Writ Appeal No.985/2006

HIGH COURT OF JUDICATURE MADRAS
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